IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE ELEVENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION No. 20832 of 2004

Between:

A.Mahaboob Saheb, S/o.A.Hazi peera,

Aged about 56 years, Occ: Driver E.75857
APSRTC, Gooty, Depot, Anantapur Dist.

..... PETITIONER

AND

1 The Depot Manager, APSRTC, Tadipatri Depot, Anantapur Dist.
2 The Deputy Chief Traffic Manager, Anantapur Region, Anantapur Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or orders, or direction more particularly one in the nature of writ of Mandamus declaring the proceedings No.01/2(18)/93 TDP dated.17-6-1994 and dated 2-11-1994 of the 1st respondent and the proceedings No.ST/19(21)/95 Dy.C.T.M.A dated 25-7-1998 of the 2nd respondent as illegal, arbitrary in violation of principles of natural justice and in violative of Article 14 and 21 of the Constitution of India and set-aside the same and consequently direct, the respondents to add two annual increments to the pay of the petitioner.

Counsel for the Petitioner: MR.J.KURMA RAO

Counsel for the Respondents: MR.P.VINAYAKA SWAMY

The Court made the following:

ORDER:

The petitioner is working as a Driver in the respondent Corporation. He was issued a charge memo alleging rash and negligent driving of a Bus and causing accident. He submitted his explanation. The 1st respondent passed an order on 17.06.1994, without conducting any enquiry, by imposing a penalty of deferment of annual increment for a period of 2 (two) years, which shall have effect on future increments of the petitioner. The petitioner preferred an appeal before the 2nd respondent challenging the order of the 1st respondent, and it was rejected on 25.07.1998.

2. The grievance of the petitioner is that since it is a major punishment, it cannot be imposed without holding an enquiry and giving an opportunity to the petitioner. Therefore, he approached this Court through this writ petition seeking to declare that the action of the 1st respondent is illegal and to direct the respondents to add the deferred increments.

3. It is a well settled law that denial of increments with cumulative effect tantamount to a major penalty, and such penalty cannot be imposed by the disciplinary authority without holding a regular departmental enquiry in terms of relevant service regulations.

4. Having regard to the facts and circumstances of the case, the punishment of major penalty of deferment of annual increment for a period of 2 (two) years with cumulative effect, imposed by the 1st respondent, can be reduced with slight modification. Therefore, the impugned order of punishment is modified as deferment of annual increment for a period of
2 (two) years without cumulative effect. The petitioner is not entitled for the difference of the amount if any from the date of punishment till the date of this order by virtue of this Order, but he is entitled to get the increments calculated on notional basis and he is entitled for the monetary benefit from the date of this Order.

5. The writ petition is, accordingly, disposed of. No costs.

dsr

ASSISTANT REGISTRAR

To:

1. The Depot Manager, APSRTC,

Tadipatri Depot, Anantapur District

2. The Deputy Chief Traffic Manager,

Anantapur Region, Anantapur District

3. Two CD copies.